IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

SEMCON IP INC.,		§ §	Case No. 2:18-cv-00192-JRG
	Plaintiff,	§ §	
		§	JURY TRIAL DEMANDED
v.		§	
		§	
AMAZON.COM, INC.,		§	
		§	
	Defendant.	§	
		§	
		§	

PLAINTIFF SEMCON IP INC.'S UNOPPOSED MOTION FOR LEAVE

Plaintiff Semcon IP Inc. ("Semcon") respectfully requests the Court's permission to allow Semcon to replace its testifying technical expert, Dr. Jaime Carbonell, with Mr. Joseph McAlexander. Semcon and Defendant Amazon.com, Inc. ("Amazon") have conferred and Amazon does not oppose this request.

Semcon respectfully requests that this Court allow substitution of Mr. McAlexander with respect to the Asserted Patents previously addressed by Dr. Carbonell. Dr. Carbonell suffers from a significant medical condition necessitating his replacement. To alleviate this unexpected circumstance, Semcon and Amazon have conferred and agreed on an unopposed proposal for the Court's consideration and approval.

The proposal, for which Semcon seeks leave, is as follows:

- Mr. Joseph McAlexander shall serve as a substitute expert in lieu of Dr. Jaime Carbonell;
- 2. Mr. McAlexander will adopt in their entirety Dr. Carbonell's July 2, 2019 opening expert report regarding infringement, July 23, 2019 rebuttal expert report regarding

- validity, and the August 3, 2019 Deposition of Dr. Carbonell (collectively, "Dr. Carbonell's Expert Testimony"). Mr. McAlexander will not offer opinions that go beyond the parameters and scope of Dr. Carbonell's Expert Testimony. Mr. McAlexander shall be a replacement for Dr. Carbonell, not an additional expert witness;
- 3. Given that Mr. McAlexander will adopt Dr. Carbonell's Expert Testimony, Amazon shall not, either at deposition or at trial, inquire as to how Mr. McAlexander would or could have done things differently;
- 4. Mr. McAlexander shall be presented as a live witness in Semcon's case-in-chief at trial and may be examined by Semcon regarding the opinions set forth in Dr. Carbonell's Expert Testimony;
- 5. During trial, Amazon may, where appropriate, attempt to impeach Mr. McAlexander using the deposition of Dr. Carbonell;
- 6. Amazon is prohibited from presenting testimony from Dr. Carbonell's deposition in its case-in-chief at trial, as Mr. McAlexander will be both present and available at trial;
- 7. All of Amazon's *Daubert* objections as to Dr. Carbonell are preserved for appeal without limitation; and
- 8. Nothing in this Order precludes Semcon from seeking leave to serve a supplemental expert report by Mr. McAlexander addressed to the Amazon products containing NXP/Freescale System-on-Chips.

The Parties respectfully request the Court provide an informative instruction to the jury explaining Mr. McAlexander's role as a substitute for Dr. Carbonell at the time he is called as a witness.

Semcon seeks this motion for leave for good cause, and not for purposes of delay.

Dated: September 13, 2019 Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF, SEMCON IP INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on September 13, 2019, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Alfred R. Fabricant

Alfred R. Fabricant